

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_  
**SHAWN DRUMGOLD**  
**Plaintiff,**

**v.**

**TIMOTHY CALLAHAN,**  
**FRANCIS M. ROACHE,**  
**PAUL MURPHY,**  
**RICHARD WALSH, and**  
**THE CITY OF BOSTON,**  
**Defendants.**  
\_\_\_\_\_

**C.A. NO.: 04-11193NG**

**DEFENDANT TIMOTHY CALLAHAN'S MOTION TO**  
**SEPARATE EVIDENCE REGARDING DAMAGES FROM PROXIMATE**  
**CAUSE EVIDENCE**

Now comes the Defendant, Timothy Callahan and moves this Court, pursuant to his oral motion on April 9, 2008, to proceed with the presentation to the jury on proximate cause on April 14, but not allow presentation on the issue of damages until after the jury votes on proximate cause.

As grounds, Defendant submits that resolution of the proximate cause issue in his favor would make evidence of damages unnecessary. Plaintiff's claimed damages are unrelated to the issue of proximate cause, and would cause great prejudice to Defendant by injecting inflammatory – and at this stage, unnecessary – evidence of Plaintiff's experiences while incarcerated.

Defendant therefore respectfully requests that the Court limit the issue to be presented to the jury on April 14 to the issue of proximate cause. Should the Court decline to do so, Defendant requests that the Court indicate whether it will allow inquiry

or presentation on the issue of Plaintiff's guilt or innocence of the murder (as discussed earlier at trial), as the Defendant submits this may impact on damages.

**Defendant,**  
**TIMOTHY CALLAHAN,**  
By his attorney,

/s/ Mary Jo Harris  
Mary Jo Harris (BBO# 561484)  
Morgan, Brown & Joy, LLP  
200 State Street  
Boston, MA 02109  
(617) 523-6666

DATED: April 11, 2008

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 11th day of April, 2008, I electronically filed with within document with the Clerk of the United States District Court for the District of Massachusetts, using the CM/ECF System. The following participants have received notice electronically:

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**For Defendant, City of Boston**  
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/s/ Mary Jo Harris